

ORIGINAL

FILED
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH, TEXAS

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

2005 JUN 13 PM 1:39

CLERK OF DISTRICT COURT

FLEXIBLE INNOVATIONS, LTD.,

Plaintiff,

v.

AMERICAN COVERS, INC. d/b/a
HANDSTANDS,

Defendant.

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4-05 CV - 021 - A
CIVIL ACTION NO.

A JURY IS DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff, Flexible Innovations, Ltd., by and through its attorneys, alleges that:

I. PARTIES

1. Plaintiff Flexible Innovations, Ltd. is a limited partnership organized under the laws of the State of Texas, having its principal place of business at 1120 South Freeway, Suite 204, Fort Worth, Texas 76104, and is sometimes hereinafter referred to as "FI."

2. Upon information and belief, Defendant American Covers, Inc. d/b/a HandStands is a corporation organized under the laws of the State of Utah, having offices at 102 W. 12200 S, Draper, Utah 84020. Summons may be delivered to Defendant by and through its President and Registered Agent, Gary Deaton at 102 W. 12200 S, Draper, Utah 84020. Defendant American Covers, Inc. d/b/a HandStands is sometimes hereinafter referred to as "ACI."

3. Upon information and belief, Defendant ACI is a foreign corporation, which has in the past and continues to date, to engage in business in the State of Texas, but has not designated nor maintained agents for service of process in the State of Texas. Upon information and belief, Defendant ACI has sold a wide variety of goods in and through the State of Texas, including but not limited to those Texas sales generated as a result of its (i) sales representatives and/or employees that make sales and sales calls in Texas; and (ii) its internet websites at www.handstands.com, www.americancovers.com, and www.mousemat.com. Upon information and belief, Defendant ACI has solicited business and made sales in Tarrant County and elsewhere in the State of Texas as a result of its marketing efforts, all purposeful acts occurring in the State of Texas for Defendant ACI to avail itself of the protections and privileges of the State of Texas; that these causes of action arise from such business activities within the State of Texas; and that the conferring of jurisdiction over Defendant ACI in this court is not offensive to traditional notions of fair play and substantial justice.

II. JURISDICTION AND VENUE

4. This action is for acts of infringement of federal trademark rights and federal unfair competition, all arising under the Trademark Act of 1946, as amended (the "Lanham Act"), 15 U.S.C. § 1051 et seq. This court has jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1338(a). This court has jurisdiction over the related common law and state claims pursuant to the court's pendent jurisdiction under 28 U.S.C. § 1338(b). Venue is proper in this district pursuant to 28 U.S.C. § 1391. Furthermore, there is full diversity

between Plaintiff FI and Defendant ACI, and the amount in controversy substantially exceeds \$100,000, exclusive of interests and costs.

III. PLAINTIFF FI'S RIGHTS

5. Since at least as early as the summer of 2003, Plaintiff FI has nationally marketed and sold its line of anti-slip, shock absorption applique products (hereafter "Products") known by its "EGRIPS" trademark. Plaintiff FI has had widespread sale of its "EGRIPS" Products, which have been distributed nationally and sold through well known retail outlets such as Radio Shack, Comp USA, and Office Depot.

6. Plaintiff FI is the owner of all right, title, and interest in and to U.S. Trademark Registration No. 2,899,410, as issued on November 2, 2004, for "EGRIPS," a true and accurate copy of which is attached hereto as Pleading Exhibit A.

7. Plaintiff FI has become known and recognized in the industry as providing its high quality Products to the consuming public that are identified by its "EGRIPS" mark. Further, Plaintiff FI's "EGRIPS" mark has acquired secondary meaning in the marketplace as indicating Plaintiff FI as the source or origin of its Products.

8. Plaintiff FI has promoted its "EGRIPS" Products in a variety of media, including print media, attendance at national trade shows, and participation at industry meetings.

IV. DEFENDANT ACI'S ACTIVITIES

9. Upon information and belief, Defendant ACI is currently marketing and selling a product known as its "IGRIP" sticky pad. Upon information and belief, Defendant ACI

offers for sale and sells its "IGRIP" product as a result of its multiple internet websites, a copy of a screen shot of which is attached as Pleading Exhibit B.

10. Upon information and belief, Defendant ACI has actively promoted its "IGRIP" product in the same general lines of commerce that Plaintiff FI has promoted its "EGRIPS" Products. Indeed, both Plaintiff FI and Defendant ACI displayed and marketed their respective "EGRIPS" and "IGRIP" products at the recent Consumer Electronics Show in Las Vegas, Nevada during January 6-9, 2005.

11. Upon information and belief, the principals of Defendant ACI have long been aware of Plaintiff FI's "EGRIPS" Products.

12. Upon information and belief, as a result of sales of its "IGRIP" products generated by virtue of marketing efforts in Tarrant County, in the Northern District of Texas, and elsewhere, Defendant ACI has misappropriated Plaintiff FI's inherently distinctive "EGRIPS" trademark by adopting the confusingly similar mark "IGRIP" for its similar products.

13. Upon information and belief, Defendant ACI's products are of the same general type as those marketed and sold by Plaintiff FI. Defendant ACI's use of the "IGRIP" mark is likely to cause confusion, mistake, and to deceive the public in that Defendant ACI's products are likely to be mistaken for and confused with Plaintiff FI's "EGRIPS" Products.

14. Furthermore, Defendant ACI's use of the "IGRIP" trademark is likely to create the mistaken impression in the public that Defendant ACI's products are endorsed by

Plaintiff FI, or that Defendant ACI is sponsored by or affiliated with, or in some manner associated with Plaintiff FI.

15. The acts of Defendant ACI, as alleged herein, are without the license, permission, or consent of Plaintiff FI.

16. The acts of Defendant ACI, as alleged herein, have caused, and unless restrained by the Court, will continue to cause serious and irreparable harm to Plaintiff FI and to the goodwill associated with Plaintiff FI's distinctive "EGRIPS" trademark.

17. Defendant ACI's utilization of a mark that so closely resembles and mimics Plaintiff FI's "EGRIPS" trademark, while Plaintiff FI continues to currently and actively expand the sales of its Products, if allowed to continue, may destroy or irreparably injure Plaintiff FI's market for its "EGRIPS" Products in this District, in Texas, and elsewhere.

18. Plaintiff FI's remedy at law is not adequate to compensate it for the injury threatened, since it is entitled to be in control of the use of its "EGRIPS" mark to advertise, market, promote, and sell its Products, and to identify Plaintiff FI as the source and origin of its well known, high quality Products, and all good will appertaining thereto.

V. COUNT ONE INFRINGEMENT UNDER THE LANHAM ACT

19. Plaintiff FI repeats and realleges paragraphs 1 through 18 of this Complaint and the acts of Defendant ACI as set forth therein or incorporated herein as a pleading to this Count.

20. The unauthorized use by Defendant ACI of the "IGRIP" trademark in association with Defendant ACI's offering for sale and selling of its products in commerce constitutes an infringement of Plaintiff FI's U.S. Trademark Registration No. 2,899,410 and

related trademark rights, which is likely the cause of Plaintiff FI's injuries and damages in violation of § 32 of the Lanham Act, 15 U.S.C. § 1114.

21. The unauthorized use by Defendant ACI of the "IGRIP" mark in association with Defendant ACI's offering for sale and selling of its products in commerce constitutes an adoption of a mark, which constitutes a false designation of origin – a knowingly false description or representation – regarding the goods offered or sold by Defendant ACI in commerce and an infringement that is likely to cause Plaintiff FI injury and damage in violation of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

VI. COUNT TWO COMMON LAW VIOLATIONS AND UNFAIR COMPETITION

22. Plaintiff FI repeats and realleges paragraphs 1 through 21 of this Complaint and the acts of Defendant ACI as set forth therein or incorporated herein as a pleading to this Count.

23. On information and belief, Defendant ACI has infringed and continues to infringe upon Plaintiff FI's common law rights by adopting and using a colorable imitation of Plaintiff's distinctive "EGRIPS" mark, namely, "IGRIP," as used in association with its marketing, offering for sale, and sale of Defendant ACI's products, knowing full well of Plaintiff FI's prior rights in and to its "EGRIPS" mark, as used on Plaintiff FI's Products.

24. Upon information and belief, Defendant ACI intentionally selected the "IGRIP" mark for use with its products so as to trade upon the well developed goodwill and reputation of Plaintiff FI as a result of the widespread advertising, marketing, and sale of Plaintiff FI's "EGRIPS" Products. The use of FI's mark by Defendant ACI, when used in

connection with its goods offered to others, is confusingly similar with Plaintiff FI's "EGRIPS" mark as used with its Products.

25. Upon information and belief, Defendant ACI's adoption and use of the "IGRIP" mark has enabled it to deliberately pass-off and palm-off its goods as those of Plaintiff FI with the intention to deceive and defraud the public.

26. Upon information and belief, such actions of Defendant ACI not only deceive the purchasing public, but cause irreparable injury to Plaintiff FI's business and good will and further damage Plaintiff FI's ability to expand its operations. Defendant ACI's usage of "IGRIP" mark misleads and deceives the public by causing the public to believe erroneously that Defendant ACI's products have the sponsorship or approval of Plaintiff FI.

27. Upon information and belief, Defendant ACI has engaged in unfair competition and continues to engage in unfair competition with Plaintiff FI in that Defendant ACI has knowingly, willfully, and fraudulently appropriated Plaintiff FI's mark by adopting a mark for its products that is confusingly similar to that of Plaintiff FI's mark, and not only is there a likelihood of confusion, but upon information and belief, actual confusion has resulted in the marketplace. This attempt by Defendant ACI to trade upon Plaintiff FI's good will and reputation, and to unlawfully appropriate the benefit of Plaintiff FI's years of marketing exposure, constitutes unfair competition by Defendant ACI.

28. The purposely deceptive use of the "IGRIP" mark by Defendant ACI has caused irreparable injury to Plaintiff FI's reputation and good will as symbolized by its "EGRIPS" mark and will continue to cause damage unless Defendant ACI is enjoined from such actions.

VII. DAMAGES

29. The amount of actual damages and lost sales sustained by Plaintiff FI and/or profits of Defendant ACI as a direct and proximate result of Defendant ACI's misconduct and violations set forth under Counts One and Two, hereinabove, was not ascertainable at the time of filing this Complaint, but will be ascertained more clearly during pre-trial discovery, and will be pled with more specificity at the conclusion of discovery; however, upon information and belief, such damages are well in excess of \$100,000, exclusive of interest and costs.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff FI prays for the following relief:

(a) That Defendant ACI, its officers, agents, servants, affiliates, employees, attorneys, and representatives and all those in privity or acting in concert with Defendant ACI and each and all of them be preliminarily, and after trial on the merits, permanently enjoined from directly or indirectly:

- (i) using the mark "IGRIP" or any other confusingly similar mark in association with Defendant ACI's products, all of which is confusingly similar to the "EGRIPS" mark of Plaintiff FI, as used in association with its Products;
- (ii) performing any act or using any word, name, style, title, or other mark that is likely to cause confusion, to cause mistake, to deceive, or otherwise mislead the trade or public into believing that Plaintiff FI and Defendant ACI are one in the

same or in some way connected; or that Plaintiff FI is a sponsor of Defendant ACI, or its products; or that Defendant ACI is in some manner affiliated, associated with, or under the supervision or control of Plaintiff FI; or that the products of Defendant ACI originated or are approved by Plaintiff FI; or is likely in any way to lead to the trade or to the public to associate Defendant ACI with Plaintiff FI; and,

(iii) using any trade practice whatsoever, including those complained of herein, which tend to unfairly compete with or injure Plaintiff FI's business or goodwill;

(b) That Defendant ACI be required to account for and pay over to Plaintiff FI all gains, profits, and advantages derived by it from the activities herein complained of;

(c) That all products of Defendant ACI utilizing the "IGRIP" mark, along with all plates, molds, matrices, and other means of making same, shall be delivered up for destruction pursuant to 15 U.S.C. § 1118;

(d) That Plaintiff FI recover from Defendant ACI treble the amount of damages suffered by Plaintiff FI pursuant to 15 U.S.C. § 1117;

(e) That the Court award punitive and exemplary damages against Defendant ACI in favor of Plaintiff FI in the sum of no less than \$100,000 by reason of Defendant ACI's fraud and palming-off;

(f) That this case be deemed exceptional and that Plaintiff FI be awarded its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117 and other applicable laws;

(g) That Plaintiff FI be awarded its costs of this litigation; and,

(h) That Plaintiff FI receive all other, further, or different relief as the Court may deem just and proper.

IX. JURY DEMAND

30. Pursuant to Federal Rules of Civil Procedure, Rule 38(b), Plaintiff FI hereby demands a trial by jury in the above-identified action.

Respectfully submitted,

By: 

RICHARD L. SCHWARTZ
SBN 17869500

WHITAKER CHALK SWINDLE & SAWYER L.L.P.
301 Commerce Street, Suite 3500
Fort Worth, TX 76102-4186
(817)878-0500
Fax: (817)878-0501

ATTORNEYS FOR PLAINTIFF
FLEXIBLE INNOVATIONS, LTD.

The United States of America



CERTIFICATE OF REGISTRATION PRINCIPAL REGISTER

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



Director of the United States Patent and Trademark Office

Int. Cl.: 17

Prior U.S. Cls.: 1, 5, 12, 13, 35 and 50 .

United States Patent and Trademark Office

Reg. No. 2,899,410

Registered Nov. 2, 2004

**TRADEMARK
PRINCIPAL REGISTER**

EGRIPS

FLEXIBLE INNOVATION, LTD (PARTNERSHIP)
3816 CANDLELITE COURT
FORT WORTH, TX 761093424

FIRST USE 6-5-2003; IN COMMERCE 6-5-2003.

FOR: ELASTOMERIC APPLIQUE FOR PLACE-
MENT ONTO HANDHELD ELECTRONIC DEVICES
TO PROVIDE ANTI-SLIP AND SHOCK ABSORP-
TION, IN CLASS 17 (U.S. CLS. 1, 5, 12, 13, 35 AND 50).

SER. NO. 78-200,215, FILED 1-6-2003.

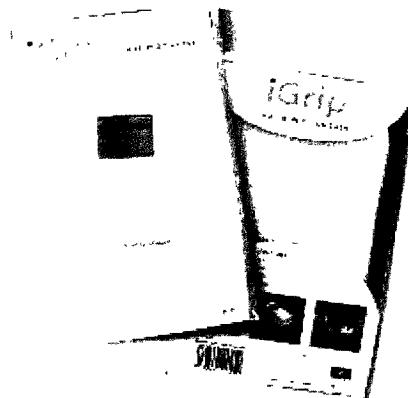
KATHERINE STOIDES, EXAMINING ATTORNEY



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Media Storage](#)[Fitness & Fun](#)[VIEW LARGER IMAGE](#)**iGrip™
Sticky Pad®**

MSRP \$8.99

Features:

- Holds iPod™ on Dash
- Clings to Any Dash
- Washable, Removable, Reusable
- Temperature Resistant
- Non-Magnetic
- No Adhesives

TESTIMONIALS

Size: 5 3/4" x 3 3/4" x 1/8"

Color: White

[iGrip™ FAQ](#)**ADD TO CART** ▶**Related Products:****iPak™**
Color: Black

MSRP \$39.99

[VIEW PRODUCT](#)**Sticky Pad®**
Color: Black

MSRP \$6.99

[VIEW PRODUCT](#)**Jelly Sticky Pad®**
Colors: Black, Blue, Red

MSRP \$8.99

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Flexible Innovations, Ltd.	DEFENDANTS American Covers, Inc. d/b/a HandStands <div style="text-align: right;">2005 JAN 13 PM 1:39</div>
(b) County of Residence of First Listed Plaintiff <u>Tarrant</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)
(c) Attorney's (Firm Name, Address, and Telephone Number) Richard L. Schwartz, Whitaker, Chalk, Swindle & Sawyer, L.L.P., 301 Commerce St., Ste. 3500, Fort Worth, TX 76102-4186; (817)878-0524, Fax: (817)878-0501	NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED Attorneys (If Known) <div style="font-size: 2em; font-weight: bold;">4-05 CV-021-A</div>

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																
<input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table border="1" style="width:100%"> <tr> <th>PTF</th> <th>DEF</th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td>1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State	1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN <input checked="" type="checkbox"/> 1 Original Proceeding	(Place an "X" in One Box Only) <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>15 U.S.C. § 1051 et seq</u> Brief description of cause: <u>Infringement of federal trademark rights and federal unfair competition</u>
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY (See instructions).	JUDGE _____	DOCKET NUMBER _____
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DATE <u>01.13.2005</u>	SIGNATURE OF ATTORNEY OF RECORD 	RECEIPT # <u>5146</u> AMOUNT <u>\$150.00</u> APPLYING IFP _____ JUDGE <u>SA</u> MAG JUDGE _____
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